RECENT IMPORTANT DECISIONS

ADOPTION—INHERITANCE FROM NATURAL KINDRED.—The plaintiff, a minor, by his guardian sued to recover his share of his deceased grandfather's estate under the law of succession of the state of California. After the death of his father and mother he had been adopted into another family. The statute of California provides that the natural parents of an adopted child are "relieved * * * of all parental duties towards and all responsibilities for the child so adopted and have no right over it," and the child and persons adopting "shall sustain towards each other the legal relation of parent and child and have all the rights and be subject to all the duties of that relation." *Held,* that this statute would be construed strictly and the child adopted would still inherit from the natural kindred other than his father and mother. *In Re Darling's Estate* (Calif. 1916), 159 Pac. 606.

Adoption, though not recognized under the common law, is allowed by statute in this country. Being in derogation of the common law adoption statutes are usually construed strictly against the adopted child, *Hockaday* v. *Lynn,* 200 Mo. 456; *Keeghan* v. *Geraghty,* 101 Ill. 26. It has been held generally that the child may inherit from its adoptive parents, *Flannigan* v. *Howard,* 200 Ill. 396; *Patterson* v. *Browning,* 146 Ind. 160. But unless the statute expressly so provides, the adoptive child cannot inherit from the kindred of its adoptive parents. *Van Derlyn* v. *Mack,* 137 Mich. 146; *Hockaday* v. *Lynn, supra; Estate of Jobson,* 164 Cal. 312. Unless the statute expressly provides to the contrary the adopted child will inherit from the natural as well as from the adoptive parents. *Wagner* v. *Varner,* 50 Ia. 532; *Clarkson* v. *Hatton,* 143 Mo. 47. But the statute in California expressly provides that all parental relations are at an end between the natural parents and the child, and so he could not inherit from them. Does it prevent his inheriting from his own kindred other than his natural parents? The principal case holds that it does not, on the ground that these statutes must be construed no more liberally than the words require. Under a similar statute in Massachusetts, however, it was held the child could not inherit from the grandfather both as a child and as a grandchild where he had been adopted by the grandfather after his father's death. *Delano* v. *Bruerton,* 148 Mass. 619. Contra, *Wagner* v. *Varner, supra.* But the principal case is distinguishable on its facts from the Massachusetts case and seems to accord with the trend of authority.

ANIMALS—STRAYING UPON THE HIGHWAY.—Plaintiff's automobile was upset and damaged by defendant's sheep which had escaped to the highway through a defective hedge. The sheep were on the road in violation of § 25 of the *Highway Act,* 1864, under which defendant was subsequently prosecuted and fined. *Held,* Defendant was under no duty to plaintiff as a member of the public to keep sheep, not shown to be vicious or mischievous, from straying on the highway, and was therefore not liable for the injury caused by them. *Heath's Garage Limited* v. *Hodges* [1916], 2 K. B. 370.

In *Hadwell* v. *Righton* [1907], 2 K. B. 345, "the hen and bicycle case," and *Higgins* v. *Searle* [1909], 100 L. T. 280, "the pig and motor-car case," the animals causing the damage were improperly in the highway, and both decisions are authority for the holding in the principal case that the owner is not liable where the injury is not the natural result of vicious propensities. In an analysis of *Higgins* v. *Searle,* supra, found in 73 J. P. 214, the plaintiff's failure to recover on § 25 of the *Highway Act* was explained on the ground that the purpose of that act was to prevent the physical obstruction of the highway, and that liability under a statute only extends to the mischief against which the enactment is intended to guard. In that case a sow frightened a horse. This suggestion would not explain the conclusion in the principal case, in which the sheep did actually obstruct the highway to plaintiff's injury. The American decisions are not entirely agreed. Many cases hold that where the animal, though not by nature vicious, is unlawfully in the highway, the owner is liable for any injuries directly resulting, *Jewett* v. *Gage,* 55 Me. 538, 92 Am. Dec. 615; *Shipley* v. *Colclough,* 81 Mich. 624, 45 N. W. 1106; *Baldwin* v. *Ensign,* 49 Conn. 113, 44 Am. Rep. 205; *Westgate* v. *Carr,* 43 Ill. 450; *Fallon* v. *O'Brien,* 12 R. I. 518, 34 Am. Rep. 713. Other cases hold that the owner is not liable for the injuries of the trespassing animals without proof of scienter, *Kilchers* v. *Elliot,* 114 Ala. 290, 21 So. 965; *Ramsey* v. *Martin,* 45 Pa. Super. Ct. 645; *Dufer* v. *Cully,* 3 Or. 377; *Klenberg* v. *Russell,* 125 Ind. 531, 25 N. E. 596; *Harvey* v. *Buchanan,* 121 Ga 384; *Meegan Bros.* v. *McKay,* 1 Okla. 59.

BANKRUPTCY—DISCHARGE REFUSED BECAUSE OF FALSE OATH.—§ 14b of the BANKRUPTCY ACT provides, as a ground for refusing to discharge a bankrupt, that he has "committed an offense punishable by imprisonment." § 29b (2) provides for punishment if one "has made a false oath or account in, or relation to, any proceeding in bankruptcy." *Held,* that the making of a false oath in a proceeding other than his own was ground for refusing his discharge. *In the Matter of Lesser, Bankrupt* (C. C. A. 1916), 234 Fed. 65.

There is no other decision directly in point, but only a dictum in the *Blalock* case (118 Fed. 679), in which the offense was not "knowingly and fraudulently" committed. It is impossible for a bankrupt to commit many of the offenses enumerated in § 29 in his own proceeding: he cannot in his own proceeding embezzle property belonging to a bankrupt estate which comes into his charge as trustee; nor procure a false claim; nor receive money from a bankrupt after petition filed against him. Hence the court argues that a false oath in *"any* proceeding in bankruptcy" means exactly what it says. Nor do the decisions cut down this doctrine. § 7 of the Act requires submission by the bankrupt to certain examinations, and provides that testimony so obtained shall not be used against the bankrupt in any criminal proceeding. *In re Marx,* 102 Fed. 676, holds that this provision should be read in as an exception to the general language of § 29b (2), but is overruled by *In re Gaylord,* 112 Fed. 668. "The contention that the perjury must be committed in his own bankruptcy is contrary to the letter of the law" and "there is nothing compelling such a construction."